

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/719,786
Inventor(s) : Edward Paul Carlin
Filed : 21 November 2003
Art Unit : 3761
Examiner : Catharine L. Anderson
Docket No. : 9431
Confirmation No. : 2939
Customer No. : 27752
Title : TAMPON WITH DIVERSE SURFACE AREAS

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

This Brief is filed pursuant to the appeal from the decision communicated in the Office Action mailed on 18 December 2009.

A timely Notice of Appeal was filed on 18 March 2010.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 5-7, 9-11, 13 and 18-20 are rejected.
Claims 1-4, 8, 12 and 14-17 are cancelled.
Claims 5-7, 9-11, 13 and 18-20 are appealed.

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A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

STATUS OF AMENDMENTS

No amendment was filed.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 13 claims a tampon (Spec. page 6, lines 16-17; FIG. 1, Ref. No. 20) for feminine hygiene comprising an insertion end (Spec. page 6, line 17; FIG. 1, Ref. No. 24), a withdrawal end (Spec. page 6, line 18; FIG. 1, Ref. No. 26), a length (Spec. page 5, lines 28-31), a longitudinal axis (Spec. page 6, line 18; FIG. 1, Ref. Ltr. L), a radial axis (Spec. page 6, line 18; FIG. 1, Ref. Ltr. R), and an outer surface (Spec. page 6, line 17; FIG. 1, Ref. No. 22); said tampon being comprised of compressed fibrous material (Spec. page 6, lines 27-28); wherein a measured portion of said outer surface of said insertion end comprises a first surface area (Spec. page 6, lines 27-28; FIG. 1, Ref. No. 40) and a measured portion of said outer surface of said withdrawal end comprises a second surface area (Spec. page 6, lines 29-30; FIG. 1, Ref. No. 42), said second surface area lacking depressions and protuberances (Spec. page 6, line 32 to Spec. page 7, line 2), wherein at least a portion of said first surface area comprises discretely spaced individual depressions having at least one shape (Spec. page 7, lines 6-7), wherein said at least one shape is selected from the group consisting of ovals, circles, cones, squares, alphanumerics, animal shapes, trademarks, logos, foreign languages, kanji, ASCII, and mixtures thereof (Spec. page 7, lines 10-15), wherein at least a portion of said first surface area further comprises protuberances (Spec. page 7, lines 6-7).

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GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 5-7, 9-11, 13, 18 and 19 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pub. No. 2003/0167048 (Policappelli).

Claim 20 has been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2003/0167048 (Policappelli) in view of 5,911,712 (Leutwyler et al.).

ARGUMENTS

Rejection Under 35 U.S.C. §102(e) Over U.S. Pub. No. 2003/0167048 (Policappelli)

Claims 5-7, 9-11, 13, 18 and 19 have been rejected under 35 U.S.C. §102(e) as being anticipated by Policappelli.

Appellants respectfully traverse this rejection. Claim 13, from which claims 5-7, 9-11, 18 and 19 depend, claims a tampon comprising an insertion end and an outer surface, said tampon being comprised of compressed fibrous material; wherein a measured portion of said outer surface of said insertion end comprises a first surface area, wherein at least a portion of said first surface area further comprises protuberances. Therefore, the protuberances of the presently claimed tampon are comprised of compressed fibrous material. In contrast, Policappelli discloses a tampon wherein the outside surface of the absorptive material includes multiple lubricated silicone-like elements 17 and 18 arranged on the outside surface of the tampon (page 1, paragraph [0021]). Therefore, the silicone-like elements 17 and 18 of Policappelli differ from the compressed fibrous protuberances of the presently claimed invention.

In view of the above, Appellants respectfully submit that claims 5-7, 9-11, 13, 18 and 19 are novel in view of Policappelli.

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*Rejection Under 35 U.S.C. §103(a) Over U.S. Pub. No. 2003/0167048 (Policappelli) in view of
5,911,712 (Leutwyler et al.)*

Claim 20 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Policappelli in view of Leutwyler et al.

Appellants respectfully traverse this rejection. Claim 13, from which claim 20 depends, claims a tampon comprising an insertion end and an outer surface, said tampon being comprised of compressed fibrous material; wherein a measured portion of said outer surface of said insertion end comprises a first surface area, wherein at least a portion of said first surface area further comprises protuberances. Therefore, the protuberances of the presently claimed tampon are comprised of compressed fibrous material. In contrast, Policappelli discloses a tampon wherein the outside surface of the absorptive material includes multiple lubricated silicone-like elements 17 and 18 arranged on the outside surface of the tampon (page 1, paragraph [0021]). Therefore, the silicone-like elements 17 and 18 of Policappelli differ from the compressed fibrous protuberances of the presently claimed invention.

The addition of Leutwyler et al. does not cure the deficiencies of Policappelli.

In view of the above, Appellants respectfully submit that Policappelli in view of Leutwyler et al. does not make claim 20 obvious.

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SUMMARY

In view of all of the above, it is respectfully submitted that claims 5-7, 9-11, 13 and 18-20 are allowable in view of the cited prior art..

Respectfully submitted,
THE PROCTER & GAMBLE COMPANY

/JEO/

Signature

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CLAIMS APPENDIX

5. The tampon according to Claim 13 wherein said depressions are arranged in a pattern.
6. The tampon according to Claim 5 wherein said pattern is selected from the group consisting of diagonal lines, straight lines, checkerboard and mixtures thereof.
7. The tampon according to Claim 13 wherein said depressions are evenly spaced.
9. The tampon according to Claim 13 wherein said protuberances are arranged in a pattern.
10. The tampon according to Claim 9 wherein said pattern is selected from the group consisting of diagonal lines, straight lines, checkerboard and mixtures thereof.
11. The tampon according to Claim 13 wherein said protuberances are evenly spaced.
13. A tampon for feminine hygiene comprising an insertion end, a withdrawal end, a length, a longitudinal axis, a radial axis, and an outer surface; said tampon being comprised of compressed fibrous material; wherein a measured portion of said outer surface of said insertion end comprises a first surface area and a measured portion of said outer surface of said withdrawal end comprises a second surface area, said second surface area lacking depressions and protuberances, wherein at least a portion of said first surface area comprises discretely spaced individual depressions having at least one shape, wherein said at least one shape is selected from the group consisting of ovals, circles, cones, squares, alphanumeric,

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animal shapes, trademarks, logos, foreign languages, kanji, ASCII, and mixtures thereof,
wherein at least a portion of said first surface area further comprises protuberances.

18. The tampon according to Claim 13 wherein the fibrous material of said tampon has an essentially uniform density over a cross-section of the tampon.
19. The tampon according to Claim 13 wherein said tampon further comprises a core which is highly compressed.
20. The tampon according to Claim 13 wherein said withdrawal end further comprises a finger indent.

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EVIDENCE APPENDIX

None

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RELATED PROCEEDINGS APPENDIX

None